

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability
Litigation,

No. 2:15-MD-02641-DGC

**JOINT [PROPOSED] CASE
MANAGEMENT ORDER NO. 3**

The attached Master Long Form Complaint and Jury Demand (“Master Complaint”) (attached as Exhibit A), Short Form Complaint (attached as Exhibit B), and Master Responsive Pleadings (attached as Exhibit C), have been presented to the Court, they are hereby approved, and it is ordered that the same be filed. It is further ordered that all allegations pled in the Master Complaint and all responses pled in the Master Responsive Pleadings are deemed pled in any previously filed Complaint and Responsive Pleading in this MDL proceeding (except as expressly noted herein), and in any Short Form Complaint and Entry of Appearance hereafter filed; provided, however, the Master Complaint is applicable only as against the defendant or defendants identified in the Short Form Complaint.

The following cases are exempted by this order, and will still be governed by the complaints (including any amended complaints) and answers filed in the various transferor courts prior to transfer:

Plaintiff	Original Jurisdiction
1. Cason, Pamela	GA – N.D. Ga. 1:12-cv-1288

Plaintiff	Original Jurisdiction
2. Coker, Jennifer	GA – N.D. Ga. 1:13-cv-515
3. Conn, Charles	TX – S.D. Tex. 4:14-cv-298
4. Ebert, Melissa	PA – E.D. Pa. 5:12-cv-1253
5. Fox, Susan	TX – N.D. Tex. 3:14-cv-133
6. Henley, Angela	WI – E.D. Wis. 2:14-cv-59
7. Keen, Harry	PA – E.D. Pa. 5:13-cv-5361
8. Milton, Gary	GA – M.D. Ga. 5:14-cv-351
9. Mintz, Jessica	NY – E.D.N.Y. 2:14-v-4942
10. Ocasio, Denise	FL – M.D. Fla. 8:13-cv-1962
11. Rivera (McClarty), Vicki	MI – E.D. Mich. 4:14-cv-13627
12. Smith, Erin	TX – E.D. Tex. 1:13-cv-633
13. Tillman, Lessie	FL – M.D. Fla. 3:13-cv-222

Subsequent to the filing of this Order, all future actions to be filed in this MDL proceeding shall be filed by the Short Form Complaint and may be directly filed into this

1 Court. Defendants are not required to file answers to Short-Form or Amended Short-
2 Form Complaints. An Entry of Appearance shall constitute a denial of all allegations in
3 the Short-Form or Amended Short-Form Complaints except as herein provided, and an
4 assertion of all defenses that are included in the Defendant's Master Answer. By filing an
5 Entry of Appearance in response to a Short Form Complaint, in lieu of an answer, the
6 Defendant does not waive any defenses (including jurisdictional and service defenses).

7 It is further ordered that Defendants shall have 60 days from the entry of this order
8 to file any motion for failure of the Master Complaint to state a claim upon which relief
9 may be granted pursuant to Rule 12 (b)(6) and 12(h)(2), and Plaintiff's shall have 30 days
10 thereafter to respond to the same.

11 Civil actions in this MDL were transferred to this court by the Judicial Panel on
12 Multidistrict Litigation for coordinated or consolidated pretrial proceedings pursuant to 28
13 U.S.C. § 1407. Upon completion of the pretrial proceedings related to a civil action as
14 determined by this court, the case shall be transferred pursuant to 28 U.S.C. § 1404(a) to
15 the District Court identified in the Short Form Complaint upon motion to remand and in
16 the event that the parties choose not to waive *Lexecon*. *Lexecon, Inc. v. Milberg Weiss*
17 *Bershad Hynes & Lerach*, 523 U.S. 26 (1998). The fact that a case was filed directly in
18 the MDL proceedings shall have no impact on the conflict of law rules to be applied to the
19 case. Instead, the law of the jurisdiction where the case is ultimately transferred will
20 govern any conflict of law. Prior to transfer, Defendants may object to the district
21 specified in the Short Form Complaint, based on venue or jurisdiction (including a lack of
22 personal jurisdiction based on *Daimler AG v. Bauman*, ___ U.S. ___, 134 S. Ct. 746
23 (2014), and propose an alternative jurisdiction for the Court's consideration.

24
25 DATED this ____ day of _____, 20__.

26
27 _____
28 David G. Campbell
United States District Judge